



## Legislation Details (With Text)

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**Title:** To amend section 321.081 of the Columbus City Code by adding language that ensures that the City Code is consistent with the Ohio Revised Code regarding collateral for the deposit of public funds; and to declare an emergency.

**Sponsors:** Priscilla Tyson

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
12/14/2017	1	CITY CLERK	Attest	
12/13/2017	1	MAYOR	Signed	
12/11/2017	1	COUNCIL PRESIDENT	Signed	
12/11/2017	1	Columbus City Council	Approved	Pass

### BACKGROUND:

In 2015 the State legislature amended the Ohio Revised Code to reflect changes in the laws related to collateral for deposits of public funds as requested by the Treasurer of State. The changes which were to be effective August 1, 2017 make the Treasurer of State responsible for the monitoring and custody of all public funds entities within the State of Ohio.

The proposed changes will ensure that the Columbus Code is in harmony with the new ORC provisions. These changes give the City of Columbus Treasurer the ability to conform to the new arrangements for collateral under the ORC. The changes in the ORC will take their effect on City deposits on January 1, 2018. This ordinance will facilitate the City Treasurer's continued management of deposits with its banks under the new State Code.

This change has been authorized by a joint meeting of the Depository Commission and Treasury Investment Board on November 13, 2017 subject to the approval of Columbus City Council.

This ordinance is submitted as an emergency so that the changes in the City Code can take place at the same time that the changes in the ORC will affect City deposits.

### FISCAL IMPACT:

There is no fiscal impact that results from the change in the Code.

To amend section 321.081 of the Columbus City Code by adding language that ensures that the City Code is consistent with the Ohio Revised Code regarding collateral for the deposit of public funds; and to declare an emergency.

**WHEREAS**, in 2015 the State legislature amended the Ohio Revised Code to reflect changes in the laws related to collateral for deposits of public funds; and

**WHEREAS**, the proposed changes will ensure that the Columbus Code is compatible with the Ohio Revised Code; and

**WHEREAS**, the changes in the ORC will affect City of Columbus deposits on January 1, 2018; and

**WHEREAS**, the change has been authorized by a joint meeting of the Depository Commission and Treasury Investment Board on November 13, 2017 subject to the approval of City Council; and

**WHEREAS**, as an emergency exists in the usual daily operation of the City Treasurer's Office in that it is immediately necessary to amend the Columbus City Code as cited below, thereby preserving the public health, peace, property, safety and welfare; now therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That section 321.081 of the Columbus City Code is hereby amended as follows:

**321.081 - Optional pledging requirements-Trustee for safekeeping of securities-Sale upon default.**

(A) As used in this section:

- (1) "Public depository" means that term as defined in Ohio R.C. 135.01, but also means an institution which receives or holds any public deposits as defined in Ohio R.C. 135.31.
- (2) "Public deposits," "public moneys," and "treasurer" mean those terms as defined in Ohio R.C. 135.01, but also have the same meanings as are set forth in Ohio R.C. 135.31.
- (3) "Subdivision" means that term as defined in Ohio R.C. 135.01, but also includes a county and the city of Columbus.

(B) In lieu of the pledging requirements prescribed in Section 321.08 of the Columbus City Codes, an institution designated as a public depository at its option may pledge a single pool of eligible securities to secure the repayment of all public moneys deposited in the institution and not otherwise secured pursuant to law, provided that at all times the total value of the securities so pledged, based on the valuations prescribed in subsection (C) of this section, is at least equal to one hundred five (105) percent of the total amount of all public deposits to be secured by the pooled securities, including the portion of such deposits covered by any federal deposit insurance. In the alternative, the city treasurer may authorize the institution to use the Ohio Pooled Collateral program as set forth in R.C. 135.182. Each such institution shall carry in its accounting records at all times a general ledger or other appropriate account of the total amount of all public deposits to be secured by the pool, as determined at the opening of business each day, and the total value of securities pledged to secure such deposits.

(C) The following securities, at the specified valuations, shall be eligible as collateral for the purposes of division (B) of this section, provided no such securities pledged as collateral are at any time in default as to either principal or interest:

- (1) Obligations of or fully insured or fully guaranteed by the United States or any federal government agency: at face value;
- (2) Obligations partially insured or partially guaranteed by any federal government agency: at face value;
- (3) Obligations of or fully guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation: at face value;
- (4) Obligations of any state, county, municipal corporation, or other legally constituted authority of any state, or any instrumentality of any state, county, municipal corporation, or other authority, which are secured as to the

- payment of principal and interest by the holding in escrow of obligations of the United States for which the full faith and credit of the United States is pledged: at face value;
- (5) Obligations of this state, or any county or other legally constituted authority of this state, or any instrumentality of this state, or such county or other authority: at face value;
  - (6) Obligations of any other state: at ninety (90) percent of face value;
  - (7) Obligations of any county, municipal corporation, or other legally constituted authority of any other state, or any instrumentality of such county, municipal corporation, or other authority: at eighty (80) percent of face value;
  - (8) Notes representing loans made to persons attending or planning to attend eligible institutions of education and to their parents, and insured or guaranteed by the United States or any agency, department, or other instrumentality thereof, or guaranteed by the Ohio Student Aid Commission pursuant to Ohio R.C. 3351.05 to 3351.14: at face value;
  - (9) Any other obligations the treasurer of state approves: at the percentage of face value he prescribes;
  - (10) Shares of no-load money market mutual funds consisting exclusively of obligations described in division (C) (1), (2), or (3) of this section and repurchase agreements secured by such obligations: at face value.
- (D) The state and each subdivision shall have an undivided security interest in the pool of securities pledged by a public depository pursuant to division (B) of this section in the proportion that the total amount of the state's or subdivision's public moneys secured by the pool bears to the total amount of public deposits so secured.
- (E) An institution designated as a public depository shall designate a qualified trustee and deposit with the trustee for safekeeping the eligible securities pledged pursuant to division (B) of this section. The institution shall give written notice of the qualified trustee to any treasurer or treasurers depositing public moneys for which such securities are pledged. The treasurer shall accept the written receipt of the trustee describing the pool of securities so deposited by the depository, a copy of which also shall be delivered to the depository.
- (F) Any federal reserve bank or branch thereof located in this state, without compliance with Ohio R.C. 1109.03, 1109.04, 1109.17, and 1109.18 and without becoming subject to Ohio R.C. 1109.15 or any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in Ohio R.C. 135.03 or 135.32(A) which holds a certificate of qualification issued by the Superintendent of Financial Institutions or any institution complying with Ohio R.C. 1109.03, 1109.04, 1109.17, and 1109.18 is qualified to act as trustee for the safekeeping of securities under this section, other than those belonging to itself or to an affiliate as defined in Ohio R.C. 1101.01(A). Upon application to him in writing by any such institution, the Superintendent shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in this state and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping of such securities. If the Superintendent finds that the applicant has been so authorized and does have such vaults and supervision thereof, he shall approve the application and issue a certificate to that effect, the original or any certified copy of which shall be conclusive evidence that the institution named therein is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself or to an affiliate.
- (G) The public depository at any time may substitute, exchange, or release eligible securities deposited with a qualified trustee pursuant to this section, provided that such substitution, exchange, or release does not reduce the total value of the securities, based on the valuations prescribed in division (C) of this section, to an amount that is less than one hundred five (105) percent of the total amount of public deposits as determined pursuant to division (B) of this section.
- (H) Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee shall have no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, but not limited to, a substitution or exchange of securities, but excluding those situations effectuated by division (I) of this section in which the trustee is required to determine face and market value.
- (I) If the public depository fails to pay over any part of the public deposits made therein as provided by law and secured pursuant to division (B) of this section, the treasurer shall give written notice of this failure to the qualified trustee

holding the pool of securities pledged against public moneys deposited in the depository, and at the same time shall send a copy of this notice to the depository. Upon receipt of such notice, the trustee shall transfer to the treasurer for public sale such of the pooled securities as may be necessary to produce an amount equal to the deposits made by the treasurer and not paid over, less the portion of such deposits covered by any federal deposit insurance, plus any accrued interest due on such deposits; however, such amount shall not exceed the state's or subdivision's proportional security interest in the market value of the pool as of the date of the depository's failure to pay over the deposits, as such interest and value are determined by the trustee. The treasurer shall sell at public sale any of the bonds or other securities so transferred. Thirty (30) days notice of such sale shall be given in a newspaper of general circulation at Columbus, in the case of the treasurer of state, and at the county seat of the county in which the office of the treasurer is located, in the case of any other treasurer. When a sale of bonds or other securities has been so made an upon payment to the treasurer of the purchase money, the treasurer shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the state or subdivision and expenses of sale shall be paid to the public depository.

- (J) Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the state or subdivision or to the treasurer or to any officer of the state or subdivision. Such charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in such securities of the state or subdivision or of the treasurer. The treasurer and his bondsmen or surety shall be relieved from any liability to the state or subdivision or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.
- (K) In lieu of placing its unqualified endorsement on each security, a public depository pledging securities pursuant to division (B) of this section that are not negotiable without its endorsement or assignment may furnish to the qualified trustee holding the securities an appropriate resolution and irrevocable power of attorney authorizing the trustee to assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the trustee prescribes.
- (L) Upon request of a treasurer no more often than four (4) times per year, a public depository shall report the amount of public moneys deposited by the treasurer and secured pursuant to division (B) of this section, and the total value, based on the valuations prescribed in division (C) of this section, of the pool of securities pledged to secure public moneys held by the depository, including those deposited by the treasurer. Upon request of a treasurer no more often than four (4) times per year, a qualified trustee shall report such total value of the pool of securities deposited with it by the depository and shall provide an itemized list of the securities in the pool. These reports shall be made as of the date the treasurer specifies.

The city treasurer shall request the public depository and the qualified trustee to provide the information detailed in Section 321.081(L) not less than four (4) times per year and on a quarterly basis. The public depository and the qualified trustee are required to comply and provide the information detailed in Section 321.081(L).

**SECTION 2.** That the prior existing section 321.081 of the Columbus City Code is hereby repealed.

**SECTION 3.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.